

Internal Revenue Service

Number: **201714026**
Release Date: 4/7/2017

Index Number: 9100.00-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Attn:

Refer Reply To:
CC:ITA:B02
PLR-127804-16
Date: January 5, 2017

TY:

Legend

Date 1	=
Date 2	=
Date 3	=
Taxpayer	=
Taxpayer Prime	=
Return Preparer	=
A	=
B	=
C	=

D	=
E	=
F	=
G	=

Dear :

This is in response to your letter dated Date 1. In your letter, you requested an extension of time to file an automatic request to make a change in method of

accounting. The request is based on §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations.

FACTS

Taxpayer represents the following facts:

Taxpayer is a corporation organized under the laws of the state of A. It is the common parent of a group of corporations that has elected to file consolidated returns for U.S. federal income tax purposes (Taxpayer Prime). Taxpayer uses the accrual method of accounting.

Taxpayer engaged Return Preparer to prepare B Forms 3115 for its taxable year ended Date 2. The requested changes in method of accounting were for C.

All B Form 3115s were timely filed with the Service, per the Taxpayer. In addition, the D and the E were attached to the consolidated federal income tax return filed by the Taxpayer Prime for its taxable year ended Date 2. Due to an inadvertent administrative oversight, Return Preparer did not attach the F to the consolidated federal income tax return. The consolidated federal income tax return was prepared on a basis consistent with each of the method changes, including the change reflected on the F.

During Date 3, Taxpayer discovered that the F was not attached to the consolidated federal income tax return Taxpayer Prime filed for its taxable year ending Date 2. Taxpayer informed Return Preparer of this failure and Return Preparer began exploring options to remedy this error culminating in a decision to file a private letter ruling request under sections 301.9100-1 and 301.9100-3 requesting an extension of time to file the F.

LAW

Rev. Proc. 2015-13, 2015-5 I.R.B. 419, provides the procedures by which a taxpayer may obtain automatic consent to change certain methods of accounting described in Rev. Proc. 2015-14, 2015-5 I.R.B. 450 (or successor). A taxpayer complying with all the applicable provisions of this revenue ruling has obtained the consent of the Commissioner of Internal Revenue to change the taxpayer's method of accounting under § 446(e) of the Internal Revenue Code and the Income Tax Regulations thereunder. Section 9 of Rev. Proc. 2015-13.

Section 6.03(1)(a)(i) of Rev. Proc. 2015-13 provides that a taxpayer changing a method of accounting pursuant to Rev. Proc. 2015-13 must complete two separate steps. Step one requires the taxpayer to attach the original Form 3115 to the taxpayer's timely filed original federal income tax return for the year of change. Step two requires the taxpayer to file a signed copy of the Form 3115 with the IRS in Ogden, Utah, no earlier than the first day of the year of change and no later than the date the original Form 3115 is filed with the taxpayer's federal income tax return for the year of change.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections. Section 301.9100-1(b) defines a "regulatory election" as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections (other than automatic changes covered under section 301.9100-2) will be granted when the taxpayer provides evidence (including affidavits described in the regulations) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that a taxpayer will be deemed to have acted reasonably and in good faith if the taxpayer --

- (i) requests relief before the failure to make the regulatory election is discovered by the Service;

- (ii) inadvertently failed to make the election because of intervening events beyond the taxpayer's control;

- (iii) failed to make the election because, after exercising due diligence, the taxpayer was unaware of the necessity for the election;

- (iv) reasonably relied on the written advice of the Service; or

- (v) reasonably relied on a qualified tax professional, and the tax professional failed to make, or advise the taxpayer to make the election.

Section 301.9100-3(b)(3) provides that a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer --

- (i) seeks to alter a return position for which an accuracy-related penalty could be imposed under § 6662 at the time the taxpayer requests relief and the new position requires a regulatory election for which relief is requested

- (ii) was informed in all material respects of the required election and related tax consequences, but chose not to file the election; or

- (iii) uses hindsight in requesting relief. If specific facts have changed since the original deadline that make the election advantageous to a taxpayer, the Service will not ordinarily grant relief.

Section 301.9100-3(c)(1) provides that the Commissioner will grant a reasonable extension of time only when the interests of the Government will not be prejudiced by the granting of relief. The interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made. The interests of the Government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under § 6501(a) before the taxpayer's receipt of a ruling granting relief under this section.

Section 301.9100-3(c)(2) provides special rules for accounting method regulatory elections. Section 301.9100-3(c)(2) provides that the interests of the government are deemed prejudiced, except in unusual or compelling circumstance, if the accounting method regulatory election for which relief is requested is subject to the advance consent procedures for method changes, requires a § 481(a) adjustment, would permit a change from an impermissible method of accounting that is an issue under consideration by examination or in any other setting, or provides a more favorable method of accounting if the election is made by a certain date or taxable year.

ANALYSIS

Based solely on the facts and representations submitted, including affidavits, we conclude that the requirements of section 301.9100-3 have been satisfied. The information and representations made by Taxpayer and their tax professionals establish that Taxpayer acted reasonably and in good faith in respect of this matter. Furthermore, based on the facts of the case provided, granting an extension will not prejudice the interests of the Government.

RULING

Based upon our analysis of the facts as represented, Taxpayer acted reasonably and in good faith, and granting relief will not prejudice the interests of the government. Therefore, the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, Taxpayer is granted 60 calendar days from the date of this letter to file the original of the Form 3115 changing its method of accounting for G under Rev. Proc. 2015-13 with an amended consolidated federal income tax return for the taxable year ending Date 2.

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. No opinion is expressed as to the federal tax treatment of the transaction under any other provisions of the Internal Revenue Code and the Treasury Regulations that may be applicable or under any other general principles of federal income taxation. This letter ruling is only applicable to matters under our jurisdiction. See Rev. Proc. 2016-1, 2016-1 I.R.B. 1, 19, Sections 1, 5. No opinion is expressed as to the tax

treatment of any conditions existing at the time of, or effects resulting from, the transaction that are not specifically covered by the above ruling.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Enclosed is a copy of this letter ruling showing the deletions proposed to be made in the letter when it is disclosed under section 6110.

Sincerely,

DAVID M. CHRISTENSEN
Assistant to the Branch Chief, Branch 2
Office of the Associate Chief Counsel
(Income Tax & Accounting)

Enc. Copy for section 6110 purposes